

Submission by India in response to CBD Notification No. SCBD/EDM/DC/46117 dated 2nd February 2005 on Review of Implementation of the Convention.

Progress in the implementation of the Convention although difficult to measure can be considered significant in many ways. However, there are still many challenges, both at the level of the operation of the regime and at national implementation, in part due to the complex nature of the convention and to its far-reaching political, commercial and social implications. The reconciliation of the duality of conservation and sustainable use, along with the management of the far-reaching political implications of the Convention, presents enormous challenges to the implementation of the regime. The challenges are further complicated by the differing perceptions of the CBD as a “residual” (taking up matters not considered elsewhere), an “umbrella” (coordinating existing agreements), or a “framework” convention (laying down principles and orientations later to be turned into binding obligations through future protocols).

POSSIBLE ISSUES TO BE ADDRESSED BY AHOEWG ON REVIEW OF IMPLEMENTATION OF THE CONVENTION

1. Progress in the implementation of the Convention and the Strategic Plan and achievements leading up to the 2010 target (VII/30 (23)).

(a) Review of current trends in the various focal areas of the framework for evaluation of progress towards the 2010 target (A global level analysis)

- The CBD has concentrated more on coordination with different bodies under CBD and less with other well-established institutions. In fact, the COP and SBSTTA have repeatedly urged the Secretariat to pursue co-operation with other Intergovernmental organizations (IGOs). Accordingly, the number of Memoranda of Co-operation and Memoranda of Understanding (MOU) signed has grown steadily, but most have yet to be translated into effective action. CBD's dependence on other bodies further complicates the co-operation. Thus there is need for the harmonization of the new principles it embodies with the norms and rules of international law found in previous agreements. Successful co-operation rests on the capacity to harmonize these different norms and approaches. In this regards the first co-ordination efforts were undertaken with the Ramsar Convention that shares the CBD's ecosystem centered perspective. The conservation objective of the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES) and the CBD could not appear closer and co-operation has become more difficult in part because of the species-centered perspective of the former which ignores socio-economic and human development factors affecting biodiversity conservation and sustainable development. Co-ordination and harmonization has been more difficult when one considers other regimes such as those dealing with trade and intellectual property rights (IPR). On a number of occasions, the COP has addressed the relationship between the CBD and the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS). In the case of trade rules, the complexity of the task is clearly made apparent in the efforts of the Cartagena Protocol and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) to reconcile environmental protection, human welfare, trade liberalization and property rights. The secretariats of the CBD and UNFCCC have not yet signed a MOU despite numerous interlinkages between both conventions

and repeated calls by the CBD-COP (COP 5) to take biodiversity concerns into consideration in the implementation of the Kyoto Protocol.

- Many developing countries are confronted with contradictions among international norms, and between international norms and local norms. One illustration of these difficulties found in many countries, is the challenge that public administrators face in implementing the ecosystem approach and devising appropriate, credible and legitimate participatory structures. Insufficient attention has also been paid to potential conflicts between the goals of protecting ecosystems, species and genetic biodiversity, of benefit-sharing, and of sustainable development, which too often are assumed to be complementary. Its implementation, particularly its participatory dimension, remains complex.
- The COP has often insisted on the gathering and exchange of information as a tool for developing concepts and procedures and sharing best practices. In particular, parties are regularly asked to submit case studies to the Secretariat. The poor response from the parties reflects the lack of direct impact of the CBD on national scientific research.

(b) Review of implementation at the national level

Some of the issues which are worth mentioning while reviewing implementation at national level are as follows:

- At times lack of Institutional Memory because of frequent changes adversely affects implementation of convention.
- Uneven participation in international fora by developing country experts is another obstacle that is needed to be overcome. Developed countries are able to participate with more number of delegates having expertise in the major relevant field. On the contrary only few experts are able to participate from developing countries. Major reasons cited for this are lack of information and networking, limited resources for participation and the importance of English in international negotiating fora and in the background literature.
- Inadequate communication between stakeholders and government at local levels reflect not only a lack of capacity but also political and cultural differences among countries.
- In the case of developing countries the failure of developed nations to abide by their own commitments generates further obstacles during implementation of the Convention. As specified in article 20 (4) of the CBD, the obligations and commitments of developing countries under the principle of common but differentiated responsibility are contingent upon the developed countries 'fulfillment of their commitments related to financial resources and transfer of technology'.

2. The impacts and effectiveness of existing processes (including in the setting of priorities) under the Convention (VII/30 (23)), such as:

- **Financial Mechanism**

Financing for the Secretariat and the institutions of the conventions has grown substantially, in line with the development of its programs, and this trend has continued with the implementation of the Cartagena Protocol. Two issues which need to be mentioned are:

1. The actual level of biodiversity funding remains unclear, as is the extent to which additional resources have been forthcoming. Due to lack of standardization in the reporting procedures of funding institutions the monitoring of these commitments through bilateral and multilateral aid programs and private investments has proven difficult.

2. The level of voluntary contributions reflects a situation prevalent in the UN system especially in the environment, where countries fund selected programs, thus making planning more difficult and potentially skewing the implementation of the convention toward issues that may be peripheral to the needs and concerns of a majority of its members.

- **COP**

The development in the CBD has been asymmetrical. COP still need to consider some items such as sustainable development (except for tourism and scattered decisions on agriculture, forests or marine biodiversity) on significant scale. Others, such as benefit-sharing, are proving extremely complex to put in practice. But we have to agree that there are others which have developed up to a magnitude that was largely unforeseen at the time of negotiation. For example Article 8(j), 4 has become one of the dominant instruments for protecting and promoting the rights of local people relative to those of the State and civil society at large. It has fostered international co-operation and in practice has led to a realignment of biodiversity issues in socio-economic terms.

3. Reporting Mechanism

Assessment of the real degree of implementation is made more difficult by shortcomings in national reporting. Reports are not filed on time or their contents differ widely, making comparisons difficult. Yet, most countries have now adopted a national strategy and action plan. In certain cases, however, these strategies are only pro forma exercises. In many instances, rather than evincing national priorities, these documents have been only first steps that helped to identify existing policies, administrative structures and constraints, define gaps in knowledge, and stimulate national discussion about these issues.